

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 790

Introduced by Assembly Member Yee

February 18, 2005

~~An act relating to international trade.~~ *An act to amend Sections 10150, 10151, and 10161.8 of, and to add Sections 10131.9 and 10131.91 to, the Business and Professions Code, relating to real estate, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 790, as amended, Yee. ~~International trade and investment.~~ *Real estate licensees.*

Existing law, the Real Estate Law, provides for the licensing and regulation of real estate licensees by the Real Estate Commissioner. Existing law requires an application for a real estate broker license examination or a real estate salesperson license examination to be made in writing to the commissioner. Existing law requires a real estate broker to notify the commissioner in writing when the broker employs a real estate salesperson. Existing law makes a willful violation of the Real Estate Law a crime.

This bill would require a real estate broker to include in that notification to the commissioner a specification of the activities intended for the employed real estate salesperson. The bill would require an application for a real estate broker license examination or a real estate salesperson license examination to also include the specification of the activities intended for the respective licensees. The bill would require real estate brokers or salespersons that negotiate residential mortgage loans to notify the commissioner annually in writing, as specified, and to pay specified penalties if they fail to make

the required notification to the commissioner. The bill would require those penalties to be deposited into the Recovery Account in the Real Estate Fund, which is continuously appropriated, and thereby would make an appropriation.

Because a willful violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides for various state activities for the purpose of promoting international trade and investment in the state.~~

~~This bill would state the intent of the Legislature to enact legislation to support the implementation and growth of international trade and investment in California through proactive policies, procedures, and structures that will encourage investment in California and thereby strengthen the economy of both the state and the nation.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10131.9 is added to the Business and
- 2 Professions Code, to read:
- 3 10131.9. (a) A real estate broker or salesperson that acts
- 4 pursuant to subdivision (d) of Section 10131 shall notify the
- 5 commissioner annually in writing, on a form that is acceptable to
- 6 the commissioner, if the real estate broker or salesperson meets
- 7 any of the following:
- 8 (1) The real estate broker or salesperson negotiates
- 9 residential mortgage loans to loan applicants for a residential
- 10 mortgage loan by using funds or making the commitment to
- 11 advance funds from a third party and not the broker's own funds
- 12 as described in Section 10131.8.
- 13 (2) The real estate broker supervises other real estate brokers
- 14 or salespersons who negotiate residential mortgage loans to a
- 15 loan applicant for a residential mortgage loan by using funds or

1 *making the commitment to advance funds from a third party and*
2 *not the broker's own funds as described in Section 10131.8.*

3 *(b) A real estate broker or salesperson who is subject to*
4 *subdivision (a) and fails to notify the commissioner in writing*
5 *within 30 days after the date established by the commissioner*
6 *shall be assessed a penalty of five dollars (\$5) per day for each*
7 *additional day the notification has not been received. The*
8 *commissioner may waive these penalties subject to petition by the*
9 *real estate broker or salesperson. All penalties paid or collected*
10 *under this section shall be deposited in the Recovery Account of*
11 *the Real Estate Fund.*

12 *SEC. 2. Section 10131.91 is added to the Business and*
13 *Professions Code, to read:*

14 *10131.91. The commissioner shall track the intended*
15 *activities of real estate salesperson licensees and real estate*
16 *broker licensees pursuant to Section 10131.2, subdivision (d) of*
17 *Section 10150, subdivision (d) of Section 10151, and Section*
18 *10161.8. The information compiled shall be made available to*
19 *the public by the commissioner.*

20 *SEC. 3. Section 10150 of the Business and Professions Code*
21 *is amended to read:*

22 *10150. (a) Application for the real estate broker license*
23 *examination shall be made in writing to the commissioner. The*
24 *commissioner may prescribe the format and content of the broker*
25 *examination application. The application for the broker*
26 *examination shall be accompanied by the real estate broker*
27 *license examination fee.*

28 *(b) Persons who have been notified by the commissioner that*
29 *they passed the real estate broker license examination may apply*
30 *for a real estate broker license. A person applying for the broker*
31 *examination may also apply for a real estate broker license.*
32 *However, a license shall not be issued until the applicant passes*
33 *the real estate broker license examination. If there is any change*
34 *to the information contained in a real estate broker license*
35 *application after the application has been submitted and before*
36 *the license has been issued, the commissioner may require the*
37 *applicant to submit a supplement to the application listing the*
38 *changed information.*

39 *(c) Application for the real estate broker license shall be made*
40 *in writing to the commissioner. The commissioner may prescribe*

1 the format and content of the broker license application. The
2 application for the real estate broker license shall be
3 accompanied by the appropriate fee.

4 *(d) Application for real estate broker license shall include a*
5 *required question of the real estate broker as to the specific*
6 *activities the broker intends to do under the license. Specification*
7 *of intended activities for the real estate broker pursuant to this*
8 *subdivision shall not limit the scope of activities allowed by law*
9 *under the real estate broker's license. The list of intended*
10 *activities shall be as follows:*

11 *(1) A real estate broker, as described in subdivisions (a) and*
12 *(c) of Section 10131.*

13 *(2) A mortgage broker, as described in subdivisions (d) and*
14 *(e) of Section 10131.*

15 *(3) Other activities, as described in subdivision (b) of Section*
16 *10131.*

17 *SEC. 4. Section 10151 of the Business and Professions Code*
18 *is amended to read:*

19 10151. (a) Application for the real estate salesperson license
20 examination shall be made in writing to the commissioner. The
21 commissioner may prescribe the format and content of the
22 salesperson examination application. The application for the
23 salesperson examination shall be accompanied by the real estate
24 salesperson license examination fee.

25 (b) Persons who have been notified by the commissioner that
26 they passed the real estate salesperson license examination may
27 apply for a real estate salesperson license. A person applying for
28 the salesperson examination may also apply for a real estate
29 salesperson license. However, a license shall not be issued until
30 the applicant passes the real estate salesperson license
31 examination. If there is any change to the information contained
32 in a real estate salesperson license application after the
33 application has been submitted and before the license has been
34 issued, the commissioner may require the applicant to submit a
35 supplement to the application listing the changed information.

36 (c) Application for the real estate salesperson license
37 examination shall be made in writing to the commissioner. The
38 commissioner may prescribe the format and content of the
39 salesperson license application. The application for the real estate
40 salesperson license shall be accompanied by the appropriate fee.

1 (d) Application for real estate salesperson license shall
2 include a required question of the real estate salesperson as to
3 the specific activities the salesperson intends to do under the
4 license. Specification of intended activities for the real estate
5 salesperson pursuant to this subdivision shall not limit the scope
6 of activities allowed by law under the real estate salesperson's
7 license. The list of intended activities shall be as follows:

8 (1) A real estate broker, as described in subdivision (a) and
9 (c) of Section 10131.

10 (2) A mortgage broker, as described in subdivisions (d) and
11 (e) of Section 10131.

12 (3) Other activities, as described in subdivision (b) of Section
13 10131.

14 SEC. 5. Section 10161.8 of the Business and Professions
15 Code is amended to read:

16 10161.8. (a) (1) Whenever a real estate—~~salesman~~
17 salesperson enters the employ of a real estate broker, the broker
18 shall immediately notify the commissioner thereof in writing.

19 (2) The notification required by paragraph (1) shall specify
20 the activities intended for the employed real estate salesperson
21 under one of the following categories:

22 (A) A real estate broker, as described in subdivisions (a) and
23 (c) of Section 10131.

24 (B) A mortgage broker, as described in subdivisions (d) or (e)
25 of Section 10131.

26 (C) Other activities, as described in subdivision (b) of Section
27 10131.

28 Specification of intended activities for an employed real estate
29 salesperson pursuant to this paragraph shall not limit the scope
30 of activities allowed by law under the real estate salesperson's
31 license.

32 (b) Whenever employment of a real estate—~~salesman~~
33 salesperson is terminated, the broker shall immediately notify the
34 commissioner thereof in writing.

35 (c) Whenever a licensee acquires a business address different
36 from the address shown on his or her license he or she shall mark
37 out the former address on the face of the license and type or write
38 the new main office address in ink on the reverse side, and date
39 and initial same.

1 (d) Whenever a real estate ~~salesman~~ *salesperson* enters the
2 employ of a new real estate broker ~~he~~ *the real estate salesperson*
3 shall mark out the name of his *or her* former broker on the face
4 of the license and type or write the name of the new employing
5 broker in ink on the reverse side, and date and initial same.

6 *SEC. 6. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution because*
8 *the only costs that may be incurred by a local agency or school*
9 *district will be incurred because this act creates a new crime or*
10 *infraction, eliminates a crime or infraction, or changes the*
11 *penalty for a crime or infraction, within the meaning of Section*
12 *17556 of the Government Code, or changes the definition of a*
13 *crime within the meaning of Section 6 of Article XIII B of the*
14 *California Constitution.*

15 ~~SECTION 1. (a) The Legislature finds and declares that~~
16 ~~more than 20 percent of California's trade is international, and~~
17 ~~one in seven jobs in California is supported by international trade~~
18 ~~and investment. International trade and investment are vital~~
19 ~~components of California's economic recovery and well-being.~~

20 ~~(b) Therefore, it is the intent of the Legislature to enact~~
21 ~~legislation to support the implementation and growth of~~
22 ~~international trade and investment in California through proactive~~
23 ~~policies, procedures, and structures that will encourage~~
24 ~~investment in California and thereby strengthen the economy of~~
25 ~~both the state and the nation.~~